UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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CHARLENE BENTON, President, on Behalf of the EZRA PRENTICE HOMES TENANTS ASSOCIATION; COUNTY OF ALBANY; SIERRA CLUB; CENTER FOR BIOLOGICAL DIVERSITY; RIVERKEEPER, INC.; SCENIC HUDSON; NATURAL RESOURCES DEFENSE COUNCIL; and CATSKILL MOUNTAINKEEPER

Plaintiffs,

v.

GLOBAL COMPANIES LLC,

Defendant

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**GLOBAL'S NOTICE OF MOTION TO DISMISS PLAINTIFFS' CLAIMS PURSUANT TO FRCP 12(b)(1) and (b)(6)**
CASE NO. 1:16-CV-125 (GLS/CFH)

**TO**: Plaintiffs, CHARLENE BENTON / EZRA PRENTICE HOMES TENANTS ASSOCIATION, COUNTY OF ALBANY, SIERRA CLUB, CENTER FOR BIOLOGICAL DIVERSITY, RIVERKEEPER, INC., SCENIC HUDSON, NATURAL RESOURCES DEFENSE COUNSEL CATSKILL MOUNTAINKEEPER, and their counsel of record:

**PLEASE TAKE NOTICE** that upon the attached Affirmation of Dean S. Sommer, Esq., dated February 26, 2016, with exhibits, and the Defendant Global's Memorandum of Law, dated February 26, 2016, and upon all pleadings and papers previously filed in this action, the Defendant Global Companies LLC ("Global") will move this Court before Judge Gary L. Sharpe at the United States District Court, Northern District of New York, James T. Foley Courthouse, 445 Broadway, Albany, New York, on April 7, 2016 at 10:00 A.M. for an Order pursuant to Rule 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure ("FRCP") awarding Global the relief requested in the foregoing motion papers, more specifically: awarding Global judgment dismissing the Plaintiffs' First and Second Claims in their Complaint dated February 3, 2016, in their entirety as the Court lacks subject matter jurisdiction over those claims as they constitute an improper "collateral attack" on Global's Clean Air Act Title V permit under 42 U.S.C. § 7607(b)(2); and further awarding Global judgment dismissing the Plaintiffs' Third Claim for lack of subject matter jurisdiction under 12(b)(1) in accordance with 42 U.S.C. § 7607(b)(2), or alternatively for failure to state a claim under FRCP 12(b)(6). Global further seeks judgment awarding Global such other and further relief deemed just and proper by the Court, including equitable relief, costs, fees and disbursements.

**PLEASE TAKE FURTHER NOTICE** that pursuant to rule 7.1(b)(1) of the Local Rules of Practice for the Northern District of New York, Plaintiffs shall serve their response to this motion seventeen (17) days prior to the return date of this motion.

**PLEASE TAKE FURTHER NOTICE** that pursuant to Rule 7.1(a)(3) of the Local Rules of Practice for the Northern District of New York, Defendant shall serve its reply eleven (11) days prior to the return date of this motion.

Respectfully Submitted,

Dated: February 26, 2016

**YOUNG / SOMMER, LLC**

By: ______________________________

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